

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No.: 2:11-cr-00334-APG

Plaintiff

Order Correcting Docket

v.

TRACEY BROWN,

Defendant

Defendant Tracy Brown filed his original motion under 18 U.S.C. § 2255 on November 5, 2018. ECF No. 293. I denied most of his claims and appointed counsel to file a supplemental brief about potential additional claims. ECF Nos. 320, 326. Brown's supplemental brief is docketed as ECF No. 334.

Although my order did not address all of the claims in Brown's § 2255 motion, a judgment was entered in both this case and the related civil case (2:18-cv-02146-APG), and the civil case was closed. This was an error, as the § 2255 motion was not fully resolved. The Ninth Circuit recognized that my order was not final and appealable and dismissed Brown's appeal as premature. ECF No. 327.

When Brown filed his supplemental brief in this case (ECF No. 334), it was docketed as a new § 2255 motion and the clerk of court opened a new related civil case (2:20-cv-01138-APG). That should not have happened, and the supplemental brief should not be deemed a second or successive § 2255 motion. Rather, the previously opened civil case (2:18-cv-02146-APG) should have remained open and the new brief (ECF No. 334) treated as a supplement to the original motion (ECF No. 293). To correct the error and clean up the record, I will order the clerk of court to close the new civil case and reopen the original civil case.

1 I THEREFORE ORDER the clerk of the court to reopen civil case number 2:18-cv-
2 02146-APG and to close civil case 2:20-cv-01138-APG.

3 DATED this 11th day of December, 2020.

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5 ANDREW P. GORDON
6 UNITED STATES DISTRICT JUDGE
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